

BEFORE THE
BOARD OF MEDICAL QUALITY ASSURANCE
STATE OF CALIFORNIA

In the Matter of the Petition for)
Reinstatement of Revoked Certificate)
of:)

LOUIS J. PRENDERGAST, M.D.)
146 Pine Canyon Road)
Salinas, California 93908)

Petitioner.)
_____)

N 22962

DECISION

This matter was heard before a hearing panel of Medical Quality Review Committee District I consisting of: Jean Clemens, public member; Ernest Lewis, M.D.; Carroll Parkinson, M.D.; William Pike, D.C.; Randall Smith, M.D.; and Norman Woolf, M.D. and Chairperson, on June 21, 1984 at Sacramento, California. S. A. Judson, Administrative Law Judge, presided.

The Attorney General of the State of California was represented by Constance Barton, Deputy Attorney General. Louis J. Prendergast, M.D., was present and represented himself.

FINDINGS OF FACT

I

Physician and Surgeon certificate No. C-16919 was issued to Louis J. Prendergast, M.D. (petitioner) on June 10, 1955.

II

By its decision effective January 30, 1978, the Board revoked petitioner's certificate for violations of Sections 490 (Convictions of Drunk Driving, Speeding, Reckless Driving) and 2390 (Use of Alcohol in Dangerous and Injurious Manner) of

the Business and Professions Code. The order of revocation was stayed, and petitioner was placed on probation for ten years upon certain conditions.

III

In accordance with a Stipulation and Order effective August 1, 1979, petitioner's certificate was revoked for violations of the conditions of his probation in that he self-used morphine and alcohol, failed to submit to psychiatric treatment and failed to comply with probation surveillance. The order of revocation was stayed, and petitioner was placed on probation for ten years upon certain conditions including an actual suspension of one year.

IV

In accordance with a Stipulation and Decision and Order effective July 23, 1981, petitioner's probation was terminated and his certificate revoked for violations of conditions of probation in that he was in possession of controlled substances and marijuana, he self-used cocaine and alcohol, he provided cocaine and dilauded to two individuals without a prescription, and he failed to undergo an alcoholic rehabilitation program.

V

Petitioner filed a Petition for Restoration of Revoked Certificate dated March 19, 1984.

VI

Petitioner completed serving two years in various state prisons on March 6, 1982 for vehicular manslaughter. Since that time, petitioner suffered the following convictions:

1. October 26, 1982 - parole violation - use of alcohol, petty theft - served two months in the County jail and continued on parole.
2. June 13, 1983 - petty theft - served ten days in the County jail - underwent counseling.

He has not been on parole or probation of any kind since December 26, 1983.

VII

Petitioner married in 1980. He and his wife subsist on his disability insurance and her salary as a radiologic technologist. Petitioner has no other source of income.

VIII

On December 26, 1982, petitioner voluntarily entered Beacon House, a resident alcohol recovery program in Pacific Grove, California, for five weeks where he underwent extensive group and individual counseling including attendance at Alcoholics Anonymous (AA) meetings five times weekly. Petitioner has become involved in speaking at and chairing numerous AA meetings in the area, particularly those involving alcoholic physicians, and he serves as a delegate to the Salinas AA Intergroup.

IX

Petitioner has been undergoing counseling with the Rural Health Project (RHP) of Monterey County since March 1982. He was appointed to the Board of Directors of the Salinas Volunteer Center and serves on its Personnel Committee. Were his petition to be granted, petitioner has a possibility of serving in a consultant position with RHP.

X

On January 10, 1984, petitioner was interviewed by the medical director of the Monterey Peninsula Hospital Recovery Center who is also a board certified psychiatrist. After obtaining a history and reviewing a psychological report, he opined that the petitioner is suffering from the chronic relapsing nature of alcoholism. As long as petitioner remains involved in a long term maintenance program, petitioner should do well. No other medical or psychological pathology was detected.

XI

Petitioner has worked with the following alcoholic recovery programs on a volunteer basis:

1. Beacon House (alcohol recovery program) - Pacific Grove - March 1983 to present - group leader for Tuesday morning meetings.
2. Sun Street Centers (alcohol recovery program for men) - Salinas - May 1983 to present - lectures Friday mornings on medical/disease aspects of alcoholism.
3. Brightside (alcohol recovery program) - Carmel - January 1984 to present - on Advisory Board and is guest lecturer.

4. Door to Hope (alcohol recovery program for women) - Salinas - November 1983 to present - lectures Thursday mornings on medical/disease aspects of alcoholism.
5. Monterey County Youth Project (alcohol and drug program) - Seaside - May 1983 to present - organized senior citizen program; conducts seminars on myths about medications and how to communicate with one's physician.
6. Appointed to the Salinas Mayor's Advisory Council on drinking and driving.

XII

Petitioner suffered a myocardial infarction with Dressler's syndrome two and one-half years ago. He underwent lengthy hospitalization. He has been advised that he could return to the practice of medicine on a limited and nonstressful basis.

XIII

During his incarceration for manslaughter, petitioner continued to read extensively in his field (urology). While at Soledad, he voluntarily recorded medical material for the Blind Project. He continues to read a number of medical journals in the field of urology. He has attended the following seminars:

1. N.C.C.A.C.S. - San Francisco - May 1982.
2. "Varieties of Alcoholism Treatment" - Asilomar - September 1983.
3. "Alcoholism and the Aged" - Salinas Valley Memorial Hospital - December 1983.
4. Attends an average of two C.M.E. meetings per week as a visiting physician at the Community Hospital of Monterey Peninsula.

XIV

Petitioner avers that he has been free of drugs since June 1978 and has been sober since October 1982. He intends to continue in a long range maintenance program through AA and wants to work with impaired physicians. He has no urge to drink. His work with RHP will stress family medicine. He has also been informed he could do part time office urology in Monterey. He would not require a DEA certificate as he would refer patients requiring prescription medicine.

XV

Petitioner has established sufficient rehabilitation at this time to warrant granting his petition on a probationary basis subject to certain conditions.

DETERMINATION OF ISSUES

Cause for granting the petition on a probationary basis subject to certain conditions exists under Section 2307 of the Business and Professions Code.

ORDER

1. The petition of Louis J. Prendergast, M.D., for restoration of his revoked certificate is granted.
2. Petitioner shall be on probation for a period of ten (10) years upon the following conditions:
 - A. Petitioner shall abstain completely from the use of alcoholic beverages.
 - B. Petitioner shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined by Section 4211 of the Business and Professions Code or any drugs requiring a prescription except those medications lawfully prescribed to him for a bona fide illness or condition by another practitioner.
 - C. Within thirty (30) days of the effective date of this decision, petitioner shall submit to the Division for its prior approval an alcoholic rehabilitation program in which petitioner shall participate at least weekly for at least fifty (50) weeks of the calendar year for the duration of probation. In the quarterly reports to the Division, petitioner shall provide documentary evidence of continuing participation in this program.
 - D. Within ninety (90) days of the effective date of this decision, and on an annual basis thereafter, petitioner shall submit to the Division for its prior approval an education program or course related to urology which shall not be less than forty (40) hours per year for each year of probation. This program shall be in addition to

the Continuing Medical Education requirements for relicensure. Following the completion of each course, the Division or its designee may administer an examination to test petitioner's knowledge of the course. Petitioner shall provide proof of attendance for sixty-five (65) hours of continuing medical education of which forty (40) hours were in satisfaction of this condition and were approved in advance by the Division.

- E. Upon completion of the education course required above, petitioner shall take and pass an oral clinical examination in the subject of urology to be administered by the Division or its designee. If petitioner fails this examination, petitioner must wait three (3) months between reexaminations, except that after three (3) failures petitioner must wait one (1) year to take each necessary reexamination thereafter. The Division shall pay the cost of the first examination, and petitioner shall pay the costs of any subsequent examinations.

Petitioner shall not practice in the field of urology until he has passed this examination and has been so notified by the Division in writing.

- F. Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Division or its designee, petitioner shall undergo a medical evaluation by a Division-appointed physician who shall furnish a medical report to the Division or its designee.

If petitioner is required by the Division or its designee to undergo medical treatment, petitioner shall, within thirty (30) days of the requirement notice, submit to the Division for its prior approval the name and qualifications of a physician of petitioner's choice. Upon approval of the treating physician, petitioner shall undergo and continue medical treatment until further notice from the Division. Petitioner shall have the treating physician submit quarterly reports to the Division.

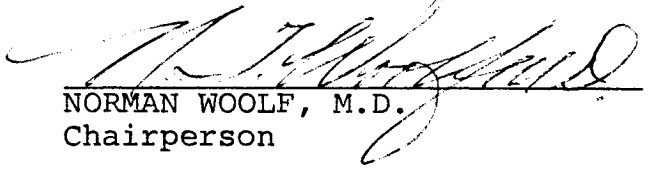
- G. Petitioner is prohibited from engaging in solo practice. Within thirty (30) days of the effective date of this decision, petitioner shall submit to the Division, and receive its prior approval, a plan of practice limited to a supervised structured environment in which petitioner's activities will be overseen and supervised by another physician.
- H. Petitioner shall, within sixty (60) days of this decision, submit to the Division for its prior approval the name and qualifications of a psychotherapist of petitioner's choice. Upon approval, petitioner shall submit to a psychiatric evaluation with a report to be made available to the Division attesting to the fact that petitioner is capable of performing satisfactorily and using good judgment in his medical practice.
- I. Petitioner shall have a qualified urologist physically present to monitor any surgical procedure and make observations that petitioner is demonstrating capability and good judgment in his performance. The monitor shall be approved, in advance, by the hospital in which the surgery is being performed.
- J. Petitioner shall immediately submit to biological fluid testing, at petitioner's cost, upon the request of the Division or its designee.
- K. Petitioner shall obey all federal, state and local laws and all rules governing the practice of medicine in California.
- L. Petitioner shall submit quarterly declarations under penalty of perjury, on forms provided by the Division, stating whether there has been compliance with all conditions of probation.
- M. Petitioner shall comply with the Division's probation surveillance program.
- N. Petitioner shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

- O. In the event petitioner should leave California to reside or to practice outside the State, petitioner must notify the Division in writing of the date of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.
- P. Upon successful completion of probation, petitioner's certificate will be fully restored.
- Q. If petitioner violates probation in any respect, the Division, after giving petitioner notice and an opportunity to be heard, may revoke probation and take whatever further disciplinary action it deems appropriate. If an accusation or petition to revoke probation is filed against petitioner during this probation, the Division shall have continuing jurisdiction until the accusation or petition is final, and the period of this probation shall be extended until the accusation or petition is final.

DATED:

June 30, 1984

This Decision shall become effective on August 8, 1984.


NORMAN WOOLF, M.D.
Chairperson

NW:SAJ:lhj